

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

R. SCOTT STOKES,

Defendant.

MEMORANDUM DECISION AND  
ORDER DENYING DEFENDANT'S  
MOTION FOR CONTINUANCE

Case No. 2:05-CR-118 TS

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This matter is before the Court on Defendant's Motion for Continuance of sentencing, filed May 12, 2006. The government filed its response opposing the Motion on May 16, 2006. Sentencing is currently set for June 8, 2006, and Defendant seeks to move that hearing to June 29, 2006 or after. This case was originally set for sentencing on June 6, 2005, and has been continued eight separate times for various reasons.

In support of his Motion, Defendant argues that yet another continuance is necessary because: the government may seek at downward departure, pursuant to USSG § 5K1.1; Defendant seeks to have an additional attorney associated to assist with the sentencing;

Defendant is having a “psychological and social history report” compiled to assist in sentencing; and there may be some question regarding a final restitution amount.

The government responds that it “does not need any more time related to a potential 5K1.1 motion,” that the government informed Defendant at the time of the last continuance that it would oppose any further continuances, and that the parties are in agreement regarding the applicable advisory guideline range.

Defendant acknowledges that the Court has broad discretion in matters of continuances, even when Sixth Amendment issues are implicated.<sup>1</sup> The Court has fully considered the pleadings, attachments and arguments of the parties, the history of the case and how that history relates to Mr. White’s case, the relevant case law, and all other relevant factors and finds that none of the grounds raised by Defendant is a legitimate basis for a further continuance of this matter. Specifically, the Court finds that Defendant has competent and knowledgeable counsel and local counsel, has had ample time to have a “psychological and social report” prepared, no additional time is required as it relates to a potential 5K1.1 motion, and any outstanding restitution issues may either be addressed at sentencing, or at a restitution hearing conducted thereafter. Therefore, a further continuance of sentencing is not warranted and the Court will proceed to sentencing on the date currently set – June 8, 2006 at 3:00 p.m.


Therefore, Defendant’s Motion for Continuance (Docket No. 13) is DENIED.

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<sup>1</sup> See *United States v. Mendoza-Salgado*, 964 F.2d 992, 1016 (10<sup>th</sup> Cir. 1992); and *United States v. West*, 828 F.2d 1468, 1470 (10<sup>th</sup> Cir. 1987) (setting forth factors to be considered in ruling on a motion for continuance).

DATED May 22, 2006.

BY THE COURT:



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TED STEWART  
United States District Judge